

Docket: ONYX1033-CIP2-
Serial No. 10/733,674
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REMARKS

The Applicants will address the Examiners' rejections in the order presented in the office action.

Double Patenting

In the Examiner's first paragraph under this heading the Examiner has rejected claim 1 for double patenting under 35 U. S. C. section 101 stating that claim 1 is claiming the same invention as claim 1 of co-pending Application No. 10/303, 598.

In the Examiner's second paragraph the Examiner has rejected claim 1 for double patenting under the judicially created doctrine of double patenting ("obviousness type double patenting") over claim 1 of co-pending Application No. 09/714, 409. The Examiner will note that U.S. Patent Application No. 09/714,409 recently issued as U. S. Patent No. 7, 001, 596.

Applicants are providing herewith amended claims that the Applicants believe obviate the Double Patenting rejections. Particularly, claim 1 has been amended to claim an adenoviral vector that has an E2F responsive transcriptional nucleotide regulatory site that controls the expression of an early adenoviral gene, and multiple adenoviral packaging sequences, which are present in adenoviral vectors R1, R2 or R3. Thus, a skilled practitioner of this art, knowing the number and position of the packaging sequences present in these vectors, could construct other adenoviral vectors varying the number and position of such sequences for maximum viral production.

Claim Rejections-35 USC § 112, 2nd paragraph

Claims 39-41 are rejected under 112, 2nd as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicants regard as the invention. Specifically, the Examiner has stated that it is unclear what the metes and bounds are of the properties of Onyx 411. In this light, the Examiner will note, that Applicants have amended claim 39 to recite that the properties comprise two E2F responsive transcriptional nucleotide regulatory sites.

The Examiner has also rejected claim 41, but as this claim has been cancelled, the rejection is moot.

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With the amendment to claim 39, and the cancellation of claim 41, it is respectfully submitted that the section 112 2nd paragraph rejection is obviated.

Conclusion

Applicants believe that they have addressed all the outstanding rejections, and earnestly solicit the Examiner to expedite allowance of the application.

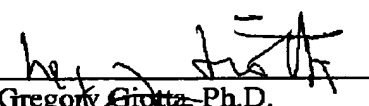
The Commissioner is authorized to charge any fees associated with this communication to Deposit Account No. 15-0615 and for any matter in connection with this response, including any fee for extension of time, which may be required.

Correspondence Address

Customer No. 37499
ONYX Pharmaceuticals, Inc.
2100 Powell Street, 12th floor
Emeryville, CA 94608
Telephone (510) 597-6503
Facsimile (510) 597-6610

Respectfully submitted

By: _____


Gregory Giotta, Ph.D.
Reg. No. 32,028

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Clean Claims Listing